

**ATTORNEY DOCKET NO. 15104.0001U2  
APPLICATION NO. 09/820,185****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****RECEIVED  
CENTRAL FAX CENTER****JUN 08 2006**

In re application of )

Zygmunt et al. )

Application No. 09/820,185 )

Filed: March 28, 2001 )

For: "SYSTEM AND METHOD FOR  
METAPROGRAMMING SOFTWARE  
DEVELOPMENT ENVIRONMENT" )

Group Art Unit: 2192

Examiner: Fowlkes, Andre R.

Confirmation No. 3521

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**MAIL STOP AF  
Commissioner for Patents  
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Alexandria, VA 22313-1450NEEDLE & ROSENBERG, P.C.  
Customer No. 23859

June 8, 2006

**CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. 81.8**

I hereby certify that this correspondence, including any items indicated as attached or included, is being transmitted via facsimile to: MAIL STOP AF, Commissioner for Patents, (571) 273-8300, on the date indicated below.

  
Jason S. Jackson6/8/2006  
Date

Sir:

The Applicant received a final rejection in the above-identified application ("Application"), which final rejection was mailed March 2, 2006. The Applicant hereby requests a "Pre-Appeal Brief Request for Review" of the final rejection pursuant to the "Pre-Appeal Brief Conference Pilot Program" described in 1296 OG 67 on July 12, 2005. No amendments are being filed with this Request. This Request is being filed in conjunction with a Notice of Appeal, enclosed herewith. The Applicant's previous Office Action response, dated June 10, 2005 is hereinafter referred to as the "Prior Response."

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APPLICATION NO. 09/820,185****REMARKS**

Claims 1-4, 11-18, 20, 27-35, 37, 38, and 40 of the Application are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,715,145 to Bowman-Amuah ("Bowman"). Claims 5-10, 19, 21-26, 36, and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bowman in view of Mueller, "Instant UML", Wrox Press, 1997 ("Mueller").

**Independent Claims 1, 18, 34, and 38**

The Office Action rejects independent claims 1, 18, 34, and 38 as anticipated by Bowman. Accordingly, arguments made with respect to the allowability of claim 1 apply to claims 18, 34, and 38.

**I. Claim 1 is not properly rejected under 102(e).**

Claim 1 of the Application recites the step of "providing a set of one or more metaprograms reflecting a computer system architecture." To support a rejection of claim 1 as anticipated by Bowman, the Office Action states:

-providing a set of one or more metaprograms reflecting a computer system architecture (col. 176:47, "the information model (i.e. a metaprogram: A high-level roadmap containing software, hardware, and other information technology requirements for HSE-MIS, see GEMI's glossary for Health, Safety & Environment – Management Information Systems <http://www.hsewebdepot.org/imstool/GEMI.nsf/WEBDocs/Glossary?OpenDocument>)),

As seen above, the Office Action quotes from "GEMI's glossary for Health, Safety & Environment – Management Information Systems" ("Glossary") to define the "information model" of Bowman. However, the Applicant cannot determine if the Glossary qualifies as a prior art reference because no publication date of the Glossary is given, nor is a copy. Thus, the 102(e) rejection is improper for at least the reason that no evidence is given that the Glossary was available to the public before the filing date of the Application. The 102(e) rejection is also improper for at least the reason that the Office Action relies on two publications to disclose the invention of claim 1, whereas a proper 102 rejection requires that a single prior art reference teach or disclose each element of a claimed invention. Thus, claim 1 is allowable for at least the

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reason that the 102(e) rejection is improper.

**II. Bowman does not teach or disclose a metaprogram as recited in claim 1.**

Claim 1 of the Application recites in relevant part:

providing a set of one or more metaprograms reflecting a computer system architecture;

The term “architecture” refers to the unique combination of hardware and software in a particular computer system.<sup>1</sup> For example, two systems having identical hardware and operating systems but different database software constitute two different architectures. Thus, given an object model, the method of claim 1 can produce a software system for any architecture defined in a given metaprogram.

The Office Action asserts that Bowman at Col. 176:47 discloses a metaprogram as recited in claim 1. Bowman at Col. 176:45-47 discloses:

The environment must provide the ability to extend the information model (i.e., the meta-model).

The Applicant does not know how the “information model” of Bowman discloses a metaprogram reflecting a computer system architecture as recited in claim 1. To advance examination, the Applicant searched Bowman but did not find any reference to a metaprogram or its equivalent.<sup>2</sup> Incidentally, the Office Action quotes from the Glossary to provide a meaning for the “information model” of Bowman, and the Glossary defines an “information model” as a “high-level roadmap containing software, hardware, and other information technology requirements for HSE-MIS.” The Applicant does not see how a “high-level roadmap” is relevant to, or discloses, a metaprogram reflecting a computer system architecture as recited in claim 1. To advance examination of the Application, the Applicant searched the website<sup>3</sup> cited in the Office Action to construe the term “information model”, even though the Glossary is not a prior art reference. The website<sup>4</sup> cited in the Office Action states:

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<sup>1</sup> See Prior Response at pages 2-4.

<sup>2</sup> See Prior Response at page 4.

<sup>3</sup> <http://www.hsewebdepot.org>.

<sup>4</sup> <http://www.hsewebdepot.org/instool/GEMI.nsf/WEBDocs/PlanInformationAnalysis?OpenDocument>.

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- The output of the Information Analysis step is an Information Model.
- The Information Model defines the data that must be collected to support the HSE processes for today and in the future.
- The Information Model includes report management, data architecture and standards, information security and the information necessary to support the processes.

The Applicant asserts that an “information model” defining “data that must be collected” clearly does not teach or disclose a metaprogram reflecting a computer system architecture as recited in claim 1. Thus, the Applicant respectfully asserts that claim 1 is allowable for at least the reason that the “information model” of Bowman does not disclose the metaprogram of claim 1.<sup>5</sup> Further, assuming for the purpose of argument only that the Glossary is a prior art reference (which has not been shown), claim 1 would still be allowable for at least the reason that the “information model” of Bowman as defined in the Glossary clearly does not disclose the metaprogram of claim 1.

**III. Bowman does not teach or disclose a meta-machine as recited in claim 1.**

The Office Action asserts that Bowman at Col. 176:37-38 discloses “it should integrate (i.e. bind) all of the necessary tools (i.e. components) through an information model.” Bowman at Col. 176:37-38 discloses: “it should integrate all of the necessary tools through an information model.” (Emphasis added). The language from Bowman is mischaracterized. The “tools” are software packages such as MS Office and MS Visio, not “components.” (Bowman Col. 175:35-50). The Applicant respectfully asserts that integrating tools (software packages) through an information model (a “high-level roadmap” for “data that must be collected”) clearly does not disclose a meta-machine binding components to metaprograms to generate a software system as recited in claim 1. Thus, claim 1 is allowable for at least the reason that Bowman does not disclose a meta-machine as recited in step 1.<sup>6</sup>

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<sup>5</sup> See Prior Response at pages 2-4.

<sup>6</sup> See Prior Response at page 5.

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**Dependent Claims 12 and 28**

Claims 12 and 28 each recite a metaprogram including code and metacode. Accordingly, arguments made with respect to claim 12 apply to claim 28. To support a rejection of claim 12, the Office Action states:

As per claim 12, the rejection of claim 1 is incorporated and further, Bowman discloses that each metaprogram in said set of metaprograms includes code and metacode, and the metacode generates a portion of the source code of the software system by outputting the code (col. 177 lines 3-7, "Code generation", and code generation tools (i.e. metacode) generate and output code").

(Emphasis added).

Bowman at Col. 177 lines 3-7 discloses:

Code generation. The ability to generate the application structure from the model is essential to high productivity. Furthermore, this step should be transparent to the user. As far as the user is concerned, a change to the model is a change to the code.

In view of the above Remarks, the Applicant asserts that references to "code generation" or "code generation tools" do not disclose metaprograms or metaprograms including code and metacode. The language cited in the Office Action to "code generation" does nothing more than disclose the prior art as plainly discussed<sup>7</sup> in the Application. Further, a specific example of a metaprogram including code and metacode was provided on page 3 of the Prior Response, yet the Office Action offers nothing that discloses a metaprogram or a metaprogram including code and metacode. To advance examination, the Applicant searched Bowman and did not find a metaprogram or a metaprogram including code and metacode.<sup>8</sup> Thus, the Applicant asserts that claim 12 is allowable for at least the reason that Bowman discloses neither a metaprogram nor a metaprogram including code and metacode as recited in claim 12.

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<sup>7</sup> See Application at page 4, line 4 to page 5, line 12.

<sup>8</sup> See Prior Response at 4.

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**Dependent Claims 2-11, 13-17, 19-27, 29-33, 35-37, and 39-40**

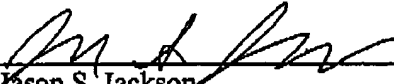
Claims 2-11, 13-17, 19-27, 29-33, 35-37, and 39-40 are allowable for at least the reason that each depends directly or indirectly from an allowable independent claim.

**CONCLUSION**

In view of the Remarks, the Applicant respectfully asserts that each of the pending claims is allowable. Accordingly, the Applicant requests reconsideration of the rejections and allowance of the pending claims.

Respectfully submitted,

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